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March 25, 2008

The Honorable Colleen McMahon

Daniel Patrick Moynihan

United States Courthouse

500 Pearl Street, Room 640

New York, NY 10007

MEMO ENDORSED

RE: *Software AG, Inc. v. Consist Software Solutions, Inc.*  
Case No. 08 CV 00389

Dear Judge McMahon:

We represent plaintiffs Software AG, Inc. and Software AG in the above referenced case. For the reasons stated below judicial efficiency would be served if the Court lifted the stay that it issued in an order filed February 29, 2008 in order to permit plaintiffs to file a summary judgment motion that would finally dispose of this case.

The February 29 order states that "further proceedings before this Court in this matter are stayed pending a determination of the pending appeal [of the Order] by the Second Circuit." However, since defendants have not moved to expedite that appeal, it is likely to be 7 months or more before the Second Circuit decides it. If the Court lifts the stay and grants summary judgment against defendants determining all issues on the merits, then the appeal of that final judgment could be consolidated with the already two pending appeals—the appeal from the December 24, 2007 final judgment in the First Litigation and the appeal of the February 21, 2008 Decision and Order in the instant case. The Second Circuit could then hear all 3 appeals together and finally dispose of both actions on their merits.

Another reason dictates that the Court lift the stay. Defendants' principal argument in their appeal from the February 21, 2008 Decision and Order is that they were denied due process when this Court granted the anti-suit injunction without allegedly affording defendants a hearing. (See attached briefs.) Permitting plaintiffs to move for summary judgment would render that contention moot.

Respectfully submitted,

*James David Jacobs*  
James David Jacobs

cc: Hyman Schaffer (By e-mail)

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No - No -  
No

*I have spent too much time on this matter and have other work that takes precedence. let the Court decide*